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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

FERNANDO GONZALEZ-VALDIVIA,) Case No. 2:13-cv-09480-R-AJW
Petitioner,)
vs.)
ERIC H. HOLDER, JR.,)
U.S. Attorney General,)
Respondent.)
Hon. Andrew J. Wistrich
PRIVACY ACT AND
PROTECTIVE ORDER
Hearing Date: N/A
Discovery Cutoff: June 16, 2014
Pre-trial Conf: October 20, 2014
Trial Date: TBD

1 Pursuant to Respondent's ex parte application filed on June 17, 2014, and
2 for good cause appearing, IT HEREBY ORDERED that:

3 A. Respondent is directed to produce to Petitioner unredacted copies of any
4 nonprivileged documents in its possession, custody, or control that are relevant to
5 any party's claims or defenses that are otherwise protected from disclosure
6 pursuant to the Privacy Act. See 5 U.S.C. § 552a(b)(11).

7
8 B. Such disclosure is subject to the following conditions:

9
10 1. This Protective Order will govern the entirety of any birth
11 certificate, passport record, alien file or any other document that contains Privacy
12 Act material, as well as any copies or summaries made thereof and any information
13 derived therefrom, including any materials that have been previously produced in
14 discovery or will be produced through any further discovery taken in this case.

15
16 2. To the extent any documents or records to be provided by the
17 federal government contain third-party names, addresses, birth dates, or any other
18 identifying information (i.e., information the use of which would allow the
19 identification of the person to whom the information relates), such identifying
20 information shall be deemed confidential (in the ordinary sense) and protected by
21 this Protective Order. All such Privacy Act information is subject to this
22 Protective Order and may be used solely for purposes of this litigation.

3. Counsel for Respondent shall designate documents containing confidential information as confidential by placing the words "COVERED BY PROTECTIVE ORDER" or the following label (or a substantial equivalent) on them or on any copies thereof, or any cover sheets thereon:

PROTECTED

THIS DOCUMENT IS SUBJECT TO A COURT ORDER IN THE
FERNANDO GONZALEZ-VALDIVIA V. ERIC H. HOLDER, JR., U.S.
ATTORNEY GENERAL, CASE (2:13-cv-09480-R-AJW). THIS DOCUMENT
AND ITS CONTENTS SHALL NOT BE USED, SHOWN OR DISTRIBUTED
EXCEPT AS PROVIDED IN THE PROTECTIVE ORDER.

4. Protected information may be disclosed only to the following persons and only to the extent necessary for the litigation of this action:

- a. Counsel for Petitioner, Petitioner, counsel for Respondent, Respondent, and any support staff of such counsel assisting in this action;
- b. The Court and its personnel, including court reporters;
- c. Individuals whose testimony is contemplated or actually taken in this action, but only to the extent necessary to elicit testimony concerning the subject matter of

1 information or records produced subject to this Protective
2 Order;

3
4 d. Expert witnesses or consultants retained by Petitioner or
5 Respondent;

6 e. The author of the document or the original source of the
7 information; and

8 f. any Court of Appeals and its personnel, in the event of an
9 appeal.

10
11 5. Upon the signing of this Order by the Court, redactions made
12 by counsel for Respondent, if any, to the documents marked “COVERED BY
13 PROTECTIVE ORDER” will not be made for the purpose of protecting the
14 privacy of third parties who may be identified in the discovered material.

15
16 Petitioner reserves the right to file a motion to compel for any redacted
17 information.

18
19 6. All persons listed in Paragraph 4(A) above to whom identifying
20 information is disclosed are prohibited from disclosing to, or otherwise discussing
21 with, any person other than those listed in 4(B)-(F) above, any confidential
22 information, except as provided in this Protective Order.

23
24 7. All persons listed in Paragraphs 4(C) and (D) above, to whom
25 identifying information is disclosed, shall first be required to read the terms of this

1 Protective Order and sign a copy of the Acknowledgment of Protective Order
2 form, attached hereto as Exhibit A, agreeing to be bound thereby. The signed
3 Acknowledgment forms shall be maintained by counsel for the Petitioner or
4 counsel for the Respondent.

5 8. Leave is hereby granted to file under seal with the Court any
6 documents which contain materials subject to this Order, unless a release is
7 obtained from the third-party to whom the materials pertain, authorizing the
8 disclosure of such information.

9 9. No protected documents or information shall be used at any
10 hearing, trial or appellate proceeding in this action, unless provision shall be made
11 for exclusion of the public or unless some other reasonable provision to protect
12 confidentiality has been made. Where protected documents or information is used
13 at a hearing, trial or appellate proceeding in this action, the appropriate portion of
14 the court transcript shall be placed under seal. Such designation shall be limited to
15 those portions of the transcript the sealing of which is reasonably necessary to
16 preserve the confidentiality of documents, as well as copies or summaries made
17 thereof and any information derived therefrom, which are subject to the terms of
18 this Protective Order.

19 10. Inadvertent disclosure of any document or other information
20 during discovery in this action shall be without prejudice to any claims that such
21

1 material is confidential, privileged, or otherwise protected from discovery within
2 the meaning of Federal Rule of Civil Procedure 26, and no party to this Protective
3 Order shall be held to have waived any rights by such inadvertent disclosure. Any
4 document or information so produced and subject to a subsequent claim of
5 privilege, work product or other protection, including protection under this
6 Protective Order, shall be returned immediately to the appropriate party, and such
7 document or information shall not be introduced into evidence in this or any other
8 proceeding by any person without either (i) the consent of said party, or (ii) Order
9 of the Court; nor will such document or information be subject to production (other
10 than in camera) in any proceeding by virtue of the fact that it was inadvertently
11 produced in this proceeding.

12 11. Within thirty (30) days of the final conclusion of this litigation,
13 including any appeals, counsel for Petitioner shall collect all documents produced
14 pursuant to this Protective Order that contain third-party identifying information,
15 as well as any copies thereof, or any information and notes derived therefrom, and
16 shall return such documents to counsel for Respondents pursuant to the terms of
17 this Protective Order. Alternatively, counsel for Petitioner shall destroy said
18 documents by shredding them and provide counsel for Respondent with
19 verification of destruction within thirty (30) days of the final conclusion of this
20 litigation, including any appeals.

1 12. Agreement to this Protective Order does not waive any rights of
2 any party to assert a claim of privilege as to these or similar documents.
3

4 13. Nothing in this agreement shall be deemed to restrict in any
5 manner the use by any party of its own documents or materials.
6

7 14. Nothing in this agreement shall affect the right of any party to
8 seek additional protection against the disclosure of documents or materials.
9

10 15. Petitioner may seek written consent authorizing the release of
11 information from his family or relatives as it relates to their third party information
12 (Privacy Act Waiver). Disclosure of information related to a third-party who has
13 executed a Privacy Act Waiver shall be governed by the terms of the Privacy Act
14 Waiver executed by the third-party.
15

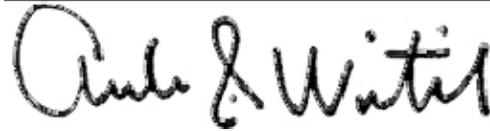
16 16. Any party may apply to this Court at any time, upon proper
17 notice, for a modification of this Protective Order with respect to the handling or
18 designation of any document or for any other purpose.
19

20 17. This Order shall be binding upon any present and future party
21 to the Fernando Gonzalez-Valdivia v. Eric H. Holder, Jr., U.S. Attorney General,
22 (CV 2:13-cv-09480-R-AJW) litigation.
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1 18. This Order shall be effective and enforceable upon its signature
2 by counsel and by the Court.
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4 IT IS SO ORDERED.
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6 DATED: June 18, 2014
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HONORABLE ANDREW J. WISTRICH
UNITED STATES MAGISTRATE JUDGE